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COMMISSION ON HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 66th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 April 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-12465 (E)

The meeting was called to order at 10.40 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

1. The CHAIRMAN said that, following consultations with the parties concerned, it had been decided that he would make the following statement concerning the situation of human rights in Colombia:

"The Commission on Human Rights warmly welcomes the opening of the permanent Office of the High Commissioner for Human Rights in Santa Fe de Bogota. It welcomes the commitment of the High Commissioner and of the Government of Colombia to the establishment of this Office, as can be seen from the intensive negotiations leading to the successful conclusion and signing, on 29 November 1996, of the agreement between the aforementioned parties on the establishment of the said Office. The Commission would have expected the Office to open more promptly, and expresses the hope that it will initiate its operational activities immediately. In accordance with the statement by the Chairman of this Commission on 23 April 1996, the office is to assist the Colombian authorities in developing policies and programmes for the promotion and protection of human rights and to observe violations of human rights in the country, making reports thereon to the High Commissioner.

The Commission also acknowledges the efforts carried out by the Government of Colombia in the field of human rights and its willingness to cooperate with the Commission's special rapporteurs and working groups.

Notwithstanding the above, the Commission on Human Rights remains deeply concerned that the situation of endemic violence and the situation of internal armed conflict affecting many parts of the country have resulted in serious consequences for human rights.

The Commission on Human Rights is also deeply concerned at the persistence of thousands of violations of the right to life, and the increasing involvement therein of so-called 'paramilitary groups'. This conflict entails serious and continuous abuses and violations of human rights and humanitarian law by both State agents and guerrilla groups.

The Commission urges the Government of Colombia to continue to strengthen its support, through all institutions of the State, for all those who promote the defence of human rights.

The Commission urges the guerrilla groups in Colombia to respect norms of international humanitarian law and, especially, to abandon the use of kidnapping, hostage-taking, anti-personnel landmines, indiscriminate killings and all attacks on the civilian population. The Commission calls for the liberation, on humanitarian grounds, of the 70 Colombian soldiers held by a guerrilla group since August 1996.

The Commission on Human Rights acknowledges that the Government of Colombia has taken steps for the application of humanitarian standards

in the conflict, and welcomes its continued cooperation with the International Committee of the Red Cross (ICRC) and the facilitation of its humanitarian activities in the country.

The Commission on Human Rights remains deeply preoccupied at the numerous cases of disappearances, as shown in the report of the Working Group on Enforced or Involuntary Disappearances (document E/CN.4/1997/34). The application at the national level of the Declaration on the Protection of all Persons from Enforced Disappearances faces several obstacles, generating impunity.

The Commission on Human Rights calls for the urgent adoption of more effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in accordance with article 3 of the Declaration.

The Commission on Human Rights remains concerned at the alarming level of impunity, in particular concerning abuses by State agents that continue to fall under the jurisdiction of military courts; it encourages the Government of Colombia to continue and conclude the process of reform of the military penal code in accordance with the recommendations made by the thematic rapporteur, inter alia as far as the exclusion from the jurisdiction of military courts of human rights violations, and in particular of crimes against humanity, is concerned. It welcomes the important advances made in a number of cases of gross human rights violations by the Human Rights Unit in the Office of the General Prosecutor which is investigating and indicting State agents, guerrillas and members of 'paramilitary groups' responsible for violations of human rights or humanitarian law.

The Commission on Human Rights is deeply concerned also about the persistence of the practice of torture. The information before the Committee against Torture indicates that the law in Colombia is not yet in accordance with several obligations under the Convention against Torture. It calls upon the Government of Colombia to combat the occurrence of torture and ill-treatment as well as the impunity which permits them to continue, as stated by the Special Rapporteur on torture in his report (E/CN.4/1997/7).

The Commission on Human Rights urges the Government of Colombia to continue strengthening ordinary justice versus special systems of justice, the misuse of which can lead to serious violations of human rights and denial of a fair trial.

While encouraging the work of the Special Commission set up by the Government of Colombia for the analysis, follow-up and implementation of the recommendations of international human rights bodies, the Commission on Human Rights considers that the implementation of these recommendations, in particular those of the thematic rapporteurs and working groups, is still not sufficient.

The Commission expects that the activities of the new human rights office in Bogota will help to improve the human rights situation in

Colombia, and to promote a climate of trust between the Government and all sectors involved in the conflict, encouraging a process of constructive dialogue involving NGOs and other sectors of civil society, and to prevent violations of human rights and international humanitarian law.

The Commission on Human Rights requests the High Commissioner to present a comprehensive analytical report to the Commission at its fifty-fourth session on the setting up of the office and its activities, and on developments in the human rights situation in Colombia."

2. He said that, following consultations, he could read out the following statement noting the consensus that the Commission had reached concerning the situation of human rights in Liberia:

"The Commission on Human Rights, meeting in Geneva from 10 March to 18 April 1997, and recalling the Chairman's statement on the situation of human rights in Liberia dated 24 April 1996, at the 62nd meeting of the fifty-second session of the Commission on Human Rights, and all previous Security Council resolutions on Liberia, in particular resolution 1041 (1996) of 26 January 1996, welcomes the signing of the Abuja Agreement and the revised schedule of implementation in August 1996, by the factional leaders in Liberia. The Commission also welcomes the substantial progress made in the demobilization and disarming of the warring factions in conformity with the schedule of implementation expected to culminate in a general election scheduled to take place in Liberia in May 1997, and urges all Liberians to move speedily towards reconciliation and the creation of a viable political and democratic order in their country.

To this end, the Commission notes with appreciation that several political parties have been registered with the newly restructured Election Commission, headed by a non-factional chairman, and that plans are under way to appoint a new head and other senior members of the judiciary.

The Commission expresses its sincere appreciation to the Economic Community of West African States (ECOWAS) and the Economic Community of West African States Monitoring Group (ECOMOG), and notes the need for the strength of the peacekeeping troops on the ground to be increased in order to ensure security in the country during the election period. In this connection, the Commission calls upon all States of the United Nations system and intergovernmental and non-governmental organizations to provide Liberia with technical and financial assistance to cope with the humanitarian situation and to provide ECOMOG with necessary logistic and financial support to enable it to carry out its mandate.

The Commission also expresses its appreciation to the States that have so far contributed to the United Nations Trust Fund on Liberia and calls upon other States to contribute generously to the Fund. It also expresses its gratitude to the Organization of African Unity (OAU),

the United Nations, ICRC, NGOs and the international community for their efforts in delivering humanitarian assistance to, and ensuring peace in, Liberia.

The Commission stresses the need for cohesion among the factions/parties, currently divided along ethnic groups, to abide by the terms of the Abuja Accord and the nation's electoral law and encourages the Group of Nine West African States that meets monthly in Monrovia to give impetus to the issue of cohesion amongst the factions and to act as a check on any excesses of the factions.

The Commission urges the Centre for Human Rights to provide the Government of Liberia, at the end of the election and on request, with advisory services and technical assistance to enable it to revive its ailing human rights structures and mechanisms and calls upon the United Nations Secretary-General to consider sending international electoral monitors and human rights monitors to Liberia, at least during and after the election.

The Commission decides to remain seized of the matter under agenda item 18 entitled 'Advisory services'."

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS CONCERNING AGENDA ITEM 10

Draft resolution E/CN.4/1997/L.95 (Situation of human rights in Iraq)

3. Mr. VAN WULFFTEN PALTHE (Netherlands), presenting the draft resolution, said that the situation of human rights in Iraq had unfortunately not improved. Hence, the draft resolution condemned the massive and extremely grave violations of human rights by the Government of Iraq and called upon the latter to abide by its freely undertaken obligations and to cooperate with United Nations human rights mechanisms, in particular by receiving a return visit by the Special Rapporteur to Iraq. The Government of Iraq was also requested to cooperate with the Tripartite Commission to establish the whereabouts and resolve the fate of the remaining several hundred missing persons, including prisoners of war, Kuwaiti nationals and third country nationals victims of the illegal Iraqi occupation of Kuwait, and to ensure equitable distribution without discrimination to the Iraqi population of the humanitarian supplies purchased with the proceeds of Iraqi oil in implementation of Security Council resolution 986 (1995) and the memorandum of understanding with the Secretary-General of May 1996 on that issue.

4. The numerous sponsors of that resolution hoped that it would be adopted without a vote.

5. Mrs. KLEIN (Secretary of the Commission) announced that Japan, Estonia and Australia should be added to the list of sponsors.

6. Mr. AL-DOURI (Observer for Iraq) said that he wished, at the outset, to emphasize that the draft resolution under consideration was a further example of the persistent desire of some States to politicize the question of human rights and turn it into the instrument of their hegemony.

7. Several Security Council resolutions were mentioned in subparagraph (b) of the third preambular paragraph. Concerning resolution 688 (1991), it should be noted that the Iraqi Government had cooperated fully with the various humanitarian organizations providing aid for the Iraqi people. With regard to resolution 687 (1991), Iraq had repeatedly stated that, following the cessation of hostilities, it had released all the prisoners of war in close cooperation with the International Committee of the Red Cross. It had complied strictly with that resolution 687 (1991), as well as all the other Security Council resolutions concerning Kuwait. Consequently, it must be assumed that, if some Powers had seen fit to mention all those instruments, it was solely in order to confuse the members of the Commission and justify the maintenance of the embargo that had been imposed on Iraq. With regard to resolution 986 (1995), he pointed out that, almost six months after the entry into force of the memorandum of understanding that had been signed with the United Nations, the Iraqi people were still awaiting the food supplies that were to be delivered to them. As for the medicines, only 5 per cent of the orders placed by Iraq had been accepted and no delivery had yet been made.

8. Paragraph 2 (a) referred to massive violations of human rights. Such accusations had been reiterated every year since the war of aggression launched by the coalition forces against Iraq and no one had attempted to verify whether they were substantiated or to determine whether progress had been made towards the elimination of the problems that were impeding the promotion of human rights in Iraq. In fact, the sole aim of the authors of those accusations was to harm Iraq, increase the political pressures to which it was being subjected and maintain the embargo.

9. In paragraph 3 (c), Iraq was called upon to cooperate with United Nations mechanisms. He wished to reaffirm that the Iraqi authorities were cooperating fully with the United Nations organs concerned with human rights and were making every effort to ensure that their reports to the treaty-monitoring bodies were presented on time. With regard to the Special Rapporteur, the Iraqi Government had repeatedly expressed its views on his reports. It regretted Mr. Stoel's inveterate hostility towards Iraq and his continued pursuit of a selective and biased approach to the situation of human rights in the country. The Iraqi Government categorically rejected the idea of sending human rights monitors to Iraq, since that would constitute unacceptable interference in its internal affairs.

10. The insinuation in paragraph 3 (d), to the effect that the judiciary in Iraq was not independent, was totally unrealistic. Moreover, the country had not promulgated any law granting impunity to persons who had committed acts of murder.

11. It should be noted that the decrees, issued in exceptional circumstances and providing for the application of penalties that were described as "cruel" in paragraph 3 (e), had been abrogated and the competent United Nations organs had been duly informed of that fact.

12. In paragraph 3 (h), Iraq was called upon to cease its repressive practices against the Kurds in the north. In that connection, it might be wondered how the Central Government, which had no military or civilian administration in that region, could have engaged in the acts of which it was

accused. Similar allegations were made concerning the population of the southern marsh areas. The Iraqi Government had already had occasion to point out that the work that was being carried out in the marsh areas consisted of development projects that had been formulated several years earlier by American, European and Japanese companies. By virtue of those projects, those areas were currently making a valuable contribution to the Iraqi population's food supplies.

13. With regard to paragraph 3 (k), the Iraqi delegation wished to reaffirm the Government's strong desire to comply with the memorandum of understanding. It was the United States and the United Kingdom which were obstructing the application of its provisions and which should therefore be held responsible for the suffering that the Iraqi people were continuing to endure. The sponsors of the draft resolution had naturally disregarded the attitude of those two countries and had not even seen fit to remind them that the memorandum of understanding was a technical document that should not be politicized. Furthermore, the mere fact of calling upon Iraq to apply that instrument illustrated the evident bias of the sponsors.

14. Although the promotion of human rights was a noble objective, there was a risk that the international community's endeavours in that field might lose all credibility if it were turned into an instrument of the narrow-minded political interests of some parties. A veritable genocide was being committed in Iraq and responsibility therefor must be born by those who, through the draft resolution under consideration, were seeking to maintain the embargo that had been imposed on the Iraqi people. Was that not a flagrant violation of human rights? For all the above reasons, the Iraqi delegation appealed to all the States Members of the Commission to vote against the draft resolution.

15. Mr. RAZZOOQI (Observer for Kuwait) drew the attention of the sponsors of the draft resolution to a slight error: in paragraph 4 (a) of the English version, the words "fifty-third" should be replaced by "fifty-fourth".

16. He welcomed the fact that the draft resolution mentioned Security Council resolution 686 (1991), in which Iraq was called upon to release all Kuwaitis and nationals of other States whom it might still be holding in detention, and pointed out that the United Nations had established mechanisms to ensure that the coercive provisions adopted under Chapter VII of the Charter were respected. It was high time to put those mechanisms into effect, since no progress had been made during the last six years in regard to the fate of the missing persons. In that matter, Iraq must be held responsible not only morally, for having invaded Kuwait, but also legally under the standards of international law. Since its mandate was to defend human rights throughout the world, the Commission should support Kuwait's just cause by adopting the draft resolution under consideration.

17. Mr. DE ICAZA (Mexico) requested clarifications concerning the meaning of the term "Welcomes" in paragraph 1 of the English version, which seemed to have caused the translators problems. In French, that term had been rendered as "Prend note avec intêrêt" and, in Spanish, "Acoge con beneplácito". In resolution 1996/72, the expression used was "Prend acte avec satisfaction". Those were two different concepts. While the Commission could certainly

express appreciation for the Special Rapporteur's work and thank him therefor, how could it welcome with satisfaction a report that painted such a negative picture of the human rights situation in a country?

18. Mr. VAN WULFFTEN PALTHE (Netherlands) said that he could not take a decision on that linguistic problem and requested the Secretariat to ensure that the English term was translated correctly in the different languages. At all events, paragraph 1 contained two concepts: on the one hand, the Commission noted with interest the report presented by the Special Rapporteur and, on the other hand, it expressed its dismay at the content of that report, which was precisely the raison d'être of the draft resolution.

19. Mr. DEMBRI (Algeria) endorsed the remarks made by the representative of Mexico and emphasized that, instead of merely taking note of the reports presented by the special rapporteurs, the Commission all too often commended some of them. It should avoid expressing preferences through wording which, at all events, might hamper an objective assessment of the work accomplished.

20. With regard to the substance of the draft resolution, Algeria, as a member of the Arab League, welcomed Iraq's recognition of Kuwait and the process of democratization that was under way in the country. Although there were still unresolved questions, particularly in connection with the Kuwaiti detainees, the best way to settle them was to continue the dialogue. From that standpoint, while not contesting the substance of the draft resolution, Algeria was astonished that it did not make even the slightest reference to the effects of the embargo on the everyday human rights situation in Iraq, which was characterized by malnutrition and lack of medicine. He urged the Commission to take that humanitarian aspect into consideration in such a way as to balance the draft resolution under consideration. He also expressed reservations concerning the provisions of paragraph 4 (b).

21. For all those reasons, Algeria would abstain in the event of a vote.

22. Mr. COMBA (Centre for Human Rights), presenting the financial implications of the draft resolution, under the terms of which the mandate of the Special Rapporteur would be extended for a further year, indicated that an appropriation of $155,400 to that end had been provided for in section 21 (Human rights) of the programme budget for the biennium 1996-1997. The resources needed for the first quarter of 1998 would be provided for in the proposed programme budget for the biennium 1998-1999.

23. Mr. ZAHRAN (Egypt) said that, although the territorial integrity and sovereignty of Iraq must be preserved, it was essential that human rights and fundamental freedoms be respected everywhere in the world, including that country. The international community was demanding that Iraq release all the Kuwaiti prisoners and shed light on the fate of the missing persons. Moreover, resolution 986 (1995), concerning the purchase of foodstuffs and medicine from oil revenue, should be applied immediately, since the delays were prejudicial to the fundamental rights of the Iraqi people as enshrined in the Universal Declaration of Human Rights.

24. Like other countries, Egypt believed that the unprecedented measures provided for in paragraph 4 (b), which did not fall within the scope of the

Commission's mandate and required the consent of the country concerned, might have serious political repercussions. Consequently, Egypt would abstain if the draft resolution were put to a vote.

25. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.95.

26. Egypt, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Belarus, Brazil, Bulgaria, Canada, Chile, Colombia, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Germany, Guinea, Ireland, Italy, Japan, Mexico, Netherlands, Nicaragua, Republic of Korea, Russian Federation, South Africa, Ukraine, United Kingdom, United States, Uruguay, Zaire.

Abstaining: Algeria, Angola, Bangladesh, Benin, Bhutan, Cape Verde, China, Cuba, Egypt, Gabon, India, Indonesia, Madagascar, Malaysia, Mali, Mozambique, Nepal, Pakistan, Philippines, Sri Lanka, Uganda, Zimbabwe.

27. Draft resolution E/CN.4/1997/L.95 was adopted by 31 votes to none, with 22 abstentions.

Draft resolution E/CN.4/1997/L.92 (Extrajudicial, summary or arbitrary executions)

28. Mrs. PENNEGÅRD (Observer for Sweden), presenting the draft resolution, read out the amendments which the sponsors had agreed to make thereto. First of all, it had been decided to move the phrase "and relevant provisions of the International Covenant on Civil and Political Rights," from the beginning of the second to the end of the first preambular paragraph. The second paragraph would then read as follows:

"Having regard to the legal framework of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions, including the provisions of Commission resolution 1992/72 of 5 March 1992 and General Assembly resolution 47/136 of 18 December 1992,".

Paragraph 7 had been slightly reworded as follows:

"Notes the important role the Special Rapporteur has played towards the elimination of extrajudicial, summary or arbitrary executions and encourages him to continue, within the framework of his mandate, to collect information from all concerned and to seek the views and comments of Governments in order to be able to respond effectively to reliable information that comes before him and to follow up on communications and country visits;".

29. The sponsors hoped that the draft resolution would be adopted without a vote.

30. Mrs. KLEIN (Secretary of the Commission) announced that Lithuania, Venezuela, Norway and New Zealand had co-sponsored the draft resolution.

31. Mr. ROGOV (Russian Federation) said that the Russian delegation had joined the consensus on the draft resolution under consideration. However, it wished to make a number of comments intended for the Special Rapporteur so that he would take care to avoid exceeding the scope of his mandate and also to avoid any selective interpretation of the provisions of the Commission's resolutions, particularly resolution 1996/62 on hostage-taking which, at Russia's proposal, had been adopted by the Commission without a vote. In paragraph 5 of that resolution, the Commission urged all thematic special rapporteurs and working groups to address, as appropriate, the consequences of hostage-taking in their forthcoming reports to the Commission. However, in spite of the repeated requests of the Russian Federation, the Special Rapporteur had not referred to that resolution in the report that he had presented to the fifty-first session of the General Assembly or in that which the Commission was considering. Such an attitude detracted from the Special Rapporteur's credibility and made cooperation difficult. The Russian Federation would take that into account in the follow-up work on that important question.

32. Draft resolution E/CN.4/1997/L.92, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/1997/L.94 (Human rights in Cuba)

33. Mrs. RUBIN (United States), presenting the draft resolution, noted two corrections that needed to be made to the text. In the second preambular paragraph, the word "Noting" should be replaced by "Recalling also" and, in paragraph 6 of the English text, the comma following the words "Special Rapporteur" should be deleted.

34. The Special Rapporteur on the situation of human rights in Cuba had found no improvement and had called for a full investigation of the incident in February 1996 in which two civilian aircraft had been shot down. The regime was continuing to deny the fundamental freedoms of the population, which were enshrined in the Universal Declaration of Human Rights. Pro-democracy and human rights activists were still being subjected to threats, harassment and intimidation. Cuba was the only country in the Western hemisphere to reject democracy, human rights and economic liberalism. The Cuban Government was continuing to swim against the tide of history by attempting to control the free flow of information, regardless of its origin, and was jamming foreign broadcasts and confiscating computers in order to prevent access to the Internet. That mistrust of everything relating to information was confirmed by the Cuban authorities' persistent refusal to meet the Commission's longstanding request that the Special Rapporteur be permitted to visit the country.

35. The Cuban people wanted to enjoy civic rights and democracy, freely express their opinions, exercise their right to freedom of religion and

organize themselves in the workplace without interference by the Government. They were aspiring to a decent life within the framework of a free economy. Unfortunately, they were being routinely denied all those fundamental rights. The purpose of the draft resolution was to send a clear message to the effect that the Cuban Government must fulfil its obligations.

36. Mrs. KLEIN (Secretary of the Commission) pointed out that Norway, Finland, the Netherlands, France, Luxembourg, Portugal and Switzerland had co-sponsored the resolution.

37. Mr. LI Baodong (China) said that the draft resolution fell totally outside the scope of the Commission's mandate, which was to protect and promote human rights, and should therefore be rejected. Some major Powers were taking advantage of their strong position in order to impose their will on small countries. The political and economic sanctions that were being applied against Cuba were causing the population untold suffering. Hence, it was not the Cuban Government but rather the parties responsible for that situation which the Commission should condemn. For all those reasons, the Chinese delegation would vote against the draft resolution.

38. Mrs. GHOSE (India) noted that the draft resolution on Cuba had been submitted to the Commission for years without any progress being achieved. The time had possibly come to recognize the fact that that manner of addressing a problem which, after all, was of a bilateral nature merely made matters worse and the Commission should therefore reconsider its methods.

39. Mr. DEMBRI (Algeria) said that the bilateral problems underlying the draft resolution could be resolved only through dialogue. It was essential to transcend some contingent events and look to the future. However, the proposed text was unlikely to promote closer understanding between Cuba and the United States. His delegation therefore had serious reservations in that regard.

40. Mr. TARMIDZI (Indonesia) endorsed the viewpoints expressed by Algeria and India.

41. Mrs. HERTZ CADIZ (Chile) said that her delegation, which remained concerned at the situation of human rights in Cuba, intended to vote in favour of the draft resolution. However, she noted that the latter referred to aspects which the Commission had already discussed in 1996 and which did not need to be reiterated at the present session. Moreover, the increasing politicization characterizing the consideration of the draft resolution was disturbing, since the ideological considerations which were being introduced in no way served the cause of human rights. The Chilean delegation, which had already expressed serious reservations at the previous session concerning the manner in which that question was being tackled, invited the Commission to adopt an approach that was more likely to facilitate the effective application of its resolutions.

42. Mr. AMAT FORES (Cuba) said that, year after year, the Commission was called upon to consider a draft resolution which, under the pretext of defending human rights, actually served the interests of the Government of the

United States and was totally in keeping with the hostile and aggressive policy which that country had been pursuing against Cuba for 37 years.

43. Everyone was aware that, in order to obtain the number of votes needed for its draft resolution, Washington engaged in systematic blackmail of numerous Governments. For their part, the Cuban people and Government would continue to improve their society and their democracy and build their future with courage and dignity.

44. However, the Cuban Government was always ready to engage in dialogue and cooperate, on an equal footing, with all those who, in contrast to the Special Rapporteur and the sponsors of the draft resolution, respected Cuba's sovereignty and independence. The Cuban delegation invited all the members who were familiar with the real situation in Cuba to vote against the draft resolution.

45. Mr. COMBA (Centre for Human Rights) presented the financial implications of the draft resolution under which the Special Rapporteur's mandate would be extended for a further year. To that end, an amount of $45,000 had been provided for in section 21 of the programme budget for the biennium 1996-1997. The resources needed for the first quarter of 1998 would be provided for in the proposed programme budget for the biennium 1998-1999.

46. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.94, as orally amended.

47. The United Kingdom, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bulgaria, Canada, Chile, Czech Republic, Denmark, El Salvador, France, Germany, Ireland, Italy, Japan, Netherlands, Nicaragua, Republic of Korea, United Kingdom, United States, Uruguay.

Against: Belarus, Bhutan, China, Cuba, India, Indonesia, South Africa, Uganda, Zaire, Zimbabwe.

Abstaining: Algeria, Angola, Bangladesh, Benin, Brazil, Cape Verde, Colombia, Dominican Republic, Egypt, Ecuador, Ethiopia, Gabon, Guinea, Madagascar, Malaysia, Mali, Mexico, Mozambique, Nepal, Pakistan, Philippines, Russian Federation, Sri Lanka, Ukraine.

48. Draft resolution E/CN.4/1997/L.94, as orally amended, was adopted by 19 votes to 10, with 24 abstentions.

Draft resolution E/CN.4/1997/L.96 (Situation of human rights in East Timor)

49. Mr. VAN WULFFTEN PALTHE (Netherlands), presenting the draft resolution on behalf of the States members of the European Union and the other co-sponsors, said that the situation of human rights in East Timor remained a matter of grave concern. It was dealt with in several reports presented to

the Commission in which reference was made to multiple violations (torture, summary executions, etc.). At its previous session, the Commission had approved a statement by the Chairman providing for several practical measures intended to improve the situation, particularly through the dispatch of a special rapporteur to that province, the conclusion of a memorandum of understanding with the Office of the High Commissioner for Human Rights for the implementation of a technical assistance programme, and the assignment to the UNDP Office at Jakarta of an official from the Centre for Human Rights who would be able to visit the province. Unfortunately, during the past year there had hardly been any progress in regard to compliance with the commitments made by Indonesia. Moreover, the Indonesian delegation had shown reluctance to tackle the problem. Consequently, the sponsors had no choice but to present that draft resolution. In that connection, it should be noted that they were calling solely for compliance with the commitments made in the Chairman's statement. They hoped that the draft resolution would be adopted without being put to a vote.

50. Mrs. KLEIN (Secretary of the Commission) announced that Hungary, Liechtenstein, the Czech Republic, Slovakia, Estonia, Brazil, the United States and Bulgaria had co-sponsored the draft resolution.

51. Mrs. GHOSE (India) thanked the States members of the European Union which had sponsored the draft resolution for giving her an opportunity to participate in what she regarded as a debate on their foreign policy. She had noted that, of the 14 draft resolutions presented to the Commission on the subject of country situations, 10 had been submitted by the States members of the European Union and all of them concerned developing countries. Their usefulness was questionable. Moreover, three States had decided to no longer cooperate with the Commission, while affirming their willingness to continue collaborating with the United Nations and other international organizations.

52. At the Commission's last three sessions, statements by the Chairman on the question of human rights in East Timor had been adopted by consensus. The Indonesian Government had declared its willingness to honour its commitments and to cooperate with all the human rights mechanisms. It had taken measures to follow up on the memorandum of intent on technical cooperation, which had been concluded with the Centre for Human Rights in October 1994, and a memorandum of understanding was being negotiated. Furthermore, the Indonesian authorities were currently pursuing a policy of transparency in East Timor, which was now accessible to the representatives of Governments wishing to visit it.

53. It must be assumed, therefore, that the question under consideration was primarily political, although it involved some aspects relating to human rights. The fact was that some former colonial Powers wished to continue exercising jurisdiction over countries that had ceased to be their colonies.

54. In the case in question, it would be more advisable for the Personal Representative of the Secretary-General, who had visited East Timor in March, to continue to offer his good offices with a view to a just and comprehensive settlement of the question. Being convinced that the draft resolution which had been presented could not contribute to a solution, the Indian delegation would vote against it.

55. Mr. TARMIDZI (Indonesia) said that the draft resolution under consideration was evidently of a political nature. During the debates, and even before the session, unfounded accusations had been made against Indonesia and its armed forces concerning, in particular, acts of brutality that had allegedly been committed against detainees. Moreover, it was undoubtedly not a coincidence that Ramos Horta had prepared a statement, which had been read out before the Commission and in which he accused the Indonesian armed forces of committing the same atrocities and attempted to prove his allegations by means of fake photographs.

56. Likewise, the ostentatious concern that the sponsors of the draft resolution had shown at the alleged aggravation of the situation of human rights in East Timor was based on a misinterpretation of the situation in the province. In actual fact, it was Ramos Horta who had declared himself in favour of the organization of more violent demonstrations intended to attract the attention of the international community. Those violent demonstrations occurred when foreign personalities visited East Timor and the Indonesian delegation wondered whether the international community really wished to endorse that type of deliberately organized violence.

57. The policy of the Indonesian Government was to prevent the security forces from ever resorting to practices such as torture, not only because that would detract from their credibility but also because it would lead to further violence.

58. The affirmation by the sponsors of the draft resolution, to the effect that the Indonesian Government had not complied with the commitments made in the statement by the Chairman of the fifty-second session of the Commission, was also totally unfounded. Moreover, it was generally recognized that the invitations extended to the Commission's special mechanisms were the prerogative of the Government concerned and, in the case in question, the Indonesian Government had refused to invite the Special Rapporteur on torture simply because he had already visited the country in 1991.

59. The sponsors also affirmed that Indonesia favoured confrontation to the detriment of cooperation. However, it was the States members of the European Union which had abandoned the courteous approach that they had adopted in recent years in order to confront Indonesia with a fait accompli, without any consultation or prior proposal. They had subsequently proposed to the Indonesian delegation a new draft statement by the Chairman, which the delegation had rejected. A country that was friendly to Indonesia had then offered its good offices to devise an arrangement acceptable to the European Union and Indonesia, but that attempt had proved fruitless since the sponsors believed that the proposal in question did not go far enough.

60. The Indonesian Government had cooperated fully and had shown great flexibility in implementing the technical cooperation agreement that had been concluded with the office of the High Commissioner for Human Rights/Centre for Human Rights. He also emphasized that the memorandum of intent on technical cooperation that had been concluded with the Centre for Human Rights had been drawn up at the request of the Indonesian Government. Moreover, before the High Commissioner's visit to Indonesia in December 1995, it had been decided to convert that memorandum of intent into a memorandum of understanding.

One month before the current session, the Indonesian Government had presented a counter proposal to the draft memorandum of understanding drawn up by the Centre with a view to expediting its finalization. Indonesia had not yet received a reply from the Centre. However, the draft in question appeared to have fallen into the hands of third parties which seemed to want to establish a linkage between the technical cooperation and human rights monitoring functions. Consequently, the Indonesian Government and the official in charge of the office of the High Commissioner had decided to postpone the negotiations until a more opportune date.

61. The Indonesian delegation also rejected the draft resolution because it ran counter to the fundamental principles agreed upon in the Vienna Declaration and Programme of Action, including the principles of objectivity, non-selectivity and impartiality in the consideration of questions relating to human rights. In addition, the adoption of such a subjective and political draft resolution would be likely to impede the efforts of the new Secretary-General, who had undertaken to continue his good offices with a view to reaching a just and comprehensive settlement of the question of East Timor. The Indonesian Government believed that a draft resolution aimed solely at bringing pressure to bear on a Member State could in no way contribute to the positive developments in the field of the promotion and protection of human rights. The Indonesian delegation hoped that the members of the Commission would act wisely by rejecting the draft resolution.

62. Mr. ZAHRAN (Egypt) said that the Egyptian delegation, which had participated in the attempts to ensure that a statement by the Chairman on the question of East Timor could be adopted by consensus, rejected any utilization of the Commission for political ends and refused to allow the question of human rights to be used as a pretext for interference in the internal affairs of a State. Egypt supported the endeavours of the Secretary-General, who had appointed a personal representative for East Timor, welcomed the diligent efforts of the Indonesian Government and encouraged the latter to continue a dialogue with the parties concerned. For all those reasons, it would have been preferable to avoid presenting a draft resolution on the situation of human rights in East Timor. In the event of a vote, the Egyptian delegation would vote against it.

63. Mr. CHOWDHURY (Bangladesh) noted that, once again, an Asian country was being called to account and the predominant impression was one of "déjà vu". The adoption of such a draft resolution, which was totally lacking in objectivity, would be counter-productive. Moreover, the explanations provided by the Indonesian delegation were satisfactory. For that reason, the Bangladeshi delegation would vote against the draft resolution.

64. Mr. DEMBRI (Algeria) noted that a certain feeling of uneasiness could be observed since, while the Commission had been expecting a statement by the Chairman on the situation in East Timor, it had been presented with a draft resolution on that question without any prior open consultation. He thought that it would be preferable to adopt a more consensual approach and hoped that the Commission was not turning into a war machine against the third world. Moreover, the situation was fairly contradictory, since the Secretary-General was making considerable efforts to deal with that question and the Indonesian Government had made commitments for the whole of the year 1997. However, the

draft resolution had been presented in April, without awaiting the end of that period. The Algerian delegation feared that the adoption of the draft resolution might render the task of the Secretary-General and his personal representative even more difficult and wondered whether it would be possible to withdraw the text and conduct more extensive consultations with a view to formulating a statement by the Chairman that could be adopted by consensus.

65. Mr. AKRAM (Pakistan) endorsed the proposal of the Algerian delegation and requested the authors of the draft resolution to make a final effort to reach an agreement on a statement by the Chairman.

66. Mr. VAN WULFFTEN PALTHE (Netherlands) said that, during the session, as in the case of previous sessions of the Commission, discussions had been held between the delegations of the States members of the European Union and the Indonesian delegation but the Indonesian Ambassador had indicated that it had not been possible to reach an agreement. Hence, the States members of the European Union had felt obliged to present a draft resolution. The European Union remained willing to discuss the possibility of a statement by the Chairman, provided that it went further than the statement by the Chairman of the fifty-second session of the Commission.

67. Mr. HAMIDON ALI (Malaysia) said that only cooperation and dialogue could further the cause of human rights and the draft resolution presented by the European Union would impede the efforts of Indonesia and the Centre for Human Rights. Furthermore, the Malaysian delegation noted that the Indonesian Government had always cooperated with the Commission's mechanisms and, consequently, announced its intention of voting against the draft resolution.

68. Mr. HWANG (Republic of Korea) welcomed the efforts that the Indonesian Government had made to improve the situation of human rights in East Timor. The delegation of the Republic of Korea had hoped that the Commission would be able to reach a consensus concerning a statement by the Chairman because, in the field of human rights, only dialogue was fruitful. Since that had not been possible, it would abstain in the event of a vote.

69. Mrs. BAUTISTA (Philippines) said that, as a matter of principle, the Philippine delegation systematically abstained during the adoption of draft resolutions on the human rights situation in a particular country, since such a step could only lead to a politicization of the Commission's work. However, in view of the considerable efforts made by the Indonesian Government and the good offices offered by the personal representative of the Secretary-General, it would vote against the draft resolution.

70. At the request of the representative of Indonesia, a vote was taken by roll-call on draft resolution E/CN.4/1997/L.96.

71. India, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Austria, Brazil, Bulgaria, Canada, Cape Verde, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, France, Germany, Ireland, Italy, Mozambique, Netherlands, United Kingdom, United States, Uruguay.

Against: Bangladesh, Bhutan, China, Cuba, Egypt, India, Indonesia, Madagascar, Malaysia, Nepal, Pakistan, Philippines, Sri Lanka, Zimbabwe.

Abstaining: Algeria, Argentina, Belarus, Benin, Chile, Colombia, Ethiopia, Gabon, Guinea, Japan, Mali, Mexico, Nicaragua, Republic of Korea, Russian Federation, South Africa, Uganda, Zaire.

72. Draft resolution E/CN.4/1997/L.96 was adopted by 20 votes to 14, with 18 abstentions.

The meeting rose at 1.05 p.m.